

ESTTA Tracking number: **ESTTA562241**

Filing date: **09/30/2013**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	InterHealth Nutraceuticals Incorporated
Granted to Date of previous extension	09/29/2013
Address	5451 Industrial Way Benicia, CA 94510 UNITED STATES
Attorney information	Gregory J. Chinlund Marshall, Gerstein & Borun LLP 233 South Wacker Drive Suite 6300 Chicago, IL 60606 UNITED STATES gchinlund@marshallip.com, mhoover@marshallip.com, tgehrke@marshallip.com, kking@marshallip.com Phone: 312-474-6300

Applicant Information

Application No	85729605	Publication date	04/02/2013
Opposition Filing Date	09/30/2013	Opposition Period Ends	09/29/2013
Applicant	UNIFIED COMMUNITY CONNECTIONS, INC. 11350 MCCORMICK ROAD, SUITE 1100, EXECUTIVE, PLAZA III HUNT VALLEY, MD 21031 UNITED STATES		

Goods/Services Affected by Opposition

Class 035. All goods and services in the class are opposed, namely: employment agency services, namely, temporary and permanent placement of workers with disabilities; arranging for job interviews and job placement for individuals with developmental disabilities
Class 039. All goods and services in the class are opposed, namely: transportation services for people with disabilities
Class 041. All goods and services in the class are opposed, namely: educational services for individuals with developmental disabilities, namely, classes and training in math and reading; training for interviews and job skills provided to individuals with developmental disabilities
Class 043. All goods and services in the class are opposed, namely: Providing temporary accommodations, namely, residential homes and housing services for individuals with developmental disabilities; providing adult day care services for people with developmental disabilities
Class 044.

All goods and services in the class are opposed, namely: mental health care services, namely, providing behavioral health rehabilitative services to individuals with developmental disabilities; physical therapy, occupational therapy, and speech and language therapy for individuals with developmental disabilities

Class 045.

All goods and services in the class are opposed, namely: providing non-medical assisted living services for personal purposes in the nature of helping disabled people with their daily activities

Grounds for Opposition

Priority and likelihood of confusion

Trademark Act section 2(d)

Mark Cited by Opposer as Basis for Opposition

U.S. Registration No.	2929146	Application Date	01/26/2001
Registration Date	03/01/2005	Foreign Priority Date	NONE
Word Mark	UC-II		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 001. First use: First Use: 2001/03/22 First Use In Commerce: 2001/03/22 Nutritional chemical additives in bulk powder, fermentation extract, tablet, capsule, gel, powder, and liquid used in the manufacture of food products and nutritional supplements Class 005. First use: First Use: 2001/03/22 First Use In Commerce: 2001/03/22 Nutritional supplements sold as an integral ingredient of dietary supplements for medically restricted diets		

Attachments

2013-09-30 Notice of Opposition - UC2.pdf(81880 bytes)

Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Tiffany D. Gehrke/
Name	Tiffany D. Gehrke
Date	09/30/2013

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

InterHealth Nutraceuticals Incorporated,)	
)	
Opposer,)	Opposition No. _____
)	
v.)	Serial No. 85/729,605
)	
Unified Community Connections, Inc.,)	Mark: UC2
)	
Applicant.)	
_____)	

OPPOSITION

INTERHEALTH NUTRACEUTICALS INCORPORATED is a California state corporation with a principal place of business at 5451 Industrial Way, Benicia, California 94510 (“InterHealth”). InterHealth hereby opposes registration of application serial no. 85/729,605 filed by Unified Community Connections, Inc., (“UCC”) for the trademark UC2.

InterHealth believes that it would be damaged by registration of UCC’s designation because InterHealth has prior rights in the trademark UC-II in connection with nutraceutical chemical additives for use in the manufacture of food products and nutritional supplements, and nutritional supplements, and the use and registration of the UC2 designation would be likely to cause confusion with and would damage the distinctiveness and reputation of InterHealth’s UC-II trademark.

The grounds for opposition are:

Opposer, InterHealth and its UC-II Trademark

1. InterHealth develops, markets and licenses the use of and provides a wide range of chemical additives and nutritional supplements for use in food products and nutritional supplements throughout the United States.

2. InterHealth adopted and has been using its UC-II trademark in commerce for these goods since at least as early as March 22, 2001. Since that time it has used and licensed the use of the UC-II trademark consistently and continuously

3. InterHealth's goods include the following:

Nutritional chemical additives in bulk powder, fermentation extract, tablet, capsule, gel, powder, and liquid used in the manufacture of food products and nutritional supplements in International Class 1; and,

Nutritional supplements sold as an integral ingredient of dietary supplements for medically restricted diets in International Class 5.

4. The UC-II trademark has become well-known in connection with these goods as a result of InterHealth's more than twelve (12) years of continuous use of the trademark in connection with its marketing, sale, and licensing of these goods.

5. Since its first use of the UC-II trademark on or about March 22, 2001, InterHealth has continuously and consistently used the UC-II trademark, and has expended significant money, time, and resources in the promotion and marketing of its goods under the UC-II trademark. As a result, InterHealth has built a substantial reputation, and its UC-II trademark has become well and widely known in connection with nutraceutical and nutritional supplement products.

6. In addition to its own sale of goods under the UC-II trademark, InterHealth licenses the use of the trademark to companies that purchase and use InterHealth's UC-II nutritional supplement to manufacture and sell nutritional supplements, food products, and supplements in the United States and worldwide. The use of the UC-II trademark is controlled by InterHealth under its license agreements and monitoring.

7. As a result of InterHealth's use and licensing of its UC-II trademark, the trademark has become well and widely known as indicating InterHealth as the source of the products and additives sold under the trademark.

8. InterHealth is also the owner of a United States trademark registration for the mark UC-II for the aforesaid goods: Registration number 2,929,146, granted March 1, 2005.

9. InterHealth has continuously and consistently used its UC-II trademark since the date of publication, and its federal trademark registration is incontestable.

Applicant and its UC2 Trademark Application

10. UCC is in the business of providing services to individuals with disabilities including personal care and meal preparation in order to meet nutritional needs.

12. UCC filed application no. 85/729,605 to register the trademark UC2 in connection with the following services:

employment agency services, namely, temporary and permanent placement of workers with disabilities; arranging for job interviews and job placement for individuals with developmental disabilities in Class 35;

transportation services for people with disabilities in Class 39;

educational services for individuals with developmental disabilities, namely, classes and training in math and reading; training for interviews and job skills provided to individuals with developmental disabilities in Class 41;

providing temporary accommodations, namely, residential homes and housing services for individuals with developmental disabilities; providing adult day care services for people with developmental disabilities in Class 43;

mental health care services, namely, providing behavioral health rehabilitative services to individuals with developmental disabilities; physical therapy, occupational therapy, and speech and language therapy for individuals with developmental disabilities in Class 44; and,

providing non-medical assisted living services for personal purposes in the nature of helping disabled people with their daily activities in Class 45.

13. UCC's proposed UC2 trademark is equivalent to InterHealth's well-known UC-II trademark.

14. The only difference between the parties respective marks is that UCC's trademark omits the hyphen and replaces the Latin number two ("II") with the Arabic number two ("2").

15. The goods for which InterHealth uses and has registered its UC-II trademark and the services described in the subject application and provided by UCC overlap.

16. There is no issue as to priority insofar as InterHealth has used its UC-II trademark since at least as early as March 22, 2001, and Applicant filed the present application on or about September 14, 2012, based on intent-to-use and UCC claims to have only adopted the mark as of 2013.

17. The Board previously granted InterHealth's extensions of time to oppose application no. 85/729,605 on April 30, 2013, May 1, 2013, and July 30, 2013, providing through September 29, 2013 for InterHealth to file a notice of opposition. Because September 29, 2013 is a Sunday, InterHealth timely files this Notice of Opposition today, Monday, September 30, 2013.

Applicant's Mark is Likely to Cause Confusion with InterHealth's Mark

18. UCC's applied-for UC2 trademark so resembles InterHealth's previously used and registered UC-II trademark as to be likely, when used on or in connection with UCC's services, to cause confusion with InterHealth's UC-II trademark, or to cause mistake, or to deceive. Consequently, registration is precluded by 15 USC 1052(d) and should be denied.

Accordingly, InterHealth asks that this opposition be sustained and that registration of this trademark be refused.

Respectfully submitted,

INTERHEALTH NUTRACEUTICALS INCORPORATED

September 30, 2013

By: /Tiffany D. Gehrke/
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CERTIFICATE OF FILING

The undersigned affirms that the foregoing NOTICE OF OPPOSITION was filed with the Trademark Trial and Appeal Board via the ESTTA electronic filing system on the date below.

Dated: September 30, 2013

/Tiffany D. Gehrke/

CERTIFICATE OF SERVICE

The undersigned affirms that the foregoing NOTICE OF OPPOSITION was served by first class mail on the date below upon the following:

Owner of Record:

Unified Community Connections, Inc.
Executive Plaza III, Suite 1100
11350 McCormick Road
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UNITED STATES

Attorney of Record/Correspondent Address:

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Maple Lawn, Maryland 20759
UNITED STATES

Dated: September 30, 2013

/Tiffany D. Gehrke/